

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION
9174 Sky Park Court, Suite 100
San Diego, California 92123

MINUTES OF MEETING
June 11, 2003

The regular meeting of the California Regional Water Quality Control Board, San Diego Region, was called to order by Chairman Minan at 9:00 a.m. at the Regional Water Quality Control Board, 9174 Sky Park Court, San Diego, California.

Item 1 – Roll Call: Board Members Present: Chairman John Minan, Gary Stephany, Eric Anderson, Terese Ghio and Richard Wright.

Staff Present: John Robertus, Michael McCann, Lori Costa, David Barker, Mark Alpert, Brian Kelley, John Phillips, Stacey Baczkowski, Craig Carlisle, Pete Michael, Deborah Jayne, John Anderson, John Odermatt, Julie Chan, David Gibson, Chiara Clemente, Amy Grove, Lesley Dobalian, Shane Landry, Christina Arias, Alan Monji, David Hanson, Barry Pulver, Gloria Fulton and Brian McDaniel.

Others Present on behalf of the Regional Board: State Water Resources Control Board – John Richards. Park Avenue Deposition Service: Diana Porter. Public Attendance: Mary Kuhn, Marriott Marina; Ann Miller, Bay Club & Halfmoon Marinas; Jan Driscoll, Allen-Matkins; Tim Leathers, Cabrillo Isle Marina; Leigh Johnson, UC Sea Grant Extension; Frank Quan, City of Oceanside; Jerry Hounsburg, Jerry Desmond, Jr., Recreational Boaters of California; Richard Dietmeier, South Coast Water District; Sandy Purdon, Shelter Cove Marina; Mark Unruh, Shaw Environmental; Daniel Castillo, Castillo & Sons; Em Black, Brad Oliver, SDYC; Hugo Burchartz, MCRD Marina; Fabian Arreola, Coronado Yacht Club; Bill Rocco, Chieko Rocco, Stephen Soden, CA Professional Divers Association; David Bond, SGYC; Marvin Sachse, Brash Industry; Robert Magallanes, Bay Club Tenants; Mike Ardelt, Bay Club Marina; Karen Holyer, Annie Molley Hill, Carrie Salenko, David Merk, Port of San Diego; Ken Gust, Boat People; Will Pfau, Michael Long, public; Joan Kelly-Longhauser, Coronado Yacht Club; Deborah Mason, Shelter Island Marina; Larry Wasserman, Ruth Kolb, Alan Langworthy, Tim Stebbins, City of San Diego; Bill Raslhick, Alpha One Diving; Jose King, Tia Juana Valley CWD; Andy Aguilar, Bruce Reznik, Sarah Pickeral, San Diego BayKeeper; Marco Gonzalez, Surfrider Foundation; Jean

McGinder, R/C-CCYC; Dave Seymour, SMWD; Betty Stein, Seaforth Marina; Richard Cloward, SD Port Tenant Association; Brian Peeile, Sun Harbor Marina; John Wachtler, SWYC; Mont McCarthy, Marina Village; Neil McGuinnessi, SD Cat. Association; Paul Lawrence, Dana Point Harbor; Richard Mann, Water Systems Support; Chip Thompson, Chula Vista Marina; Manuel Monge, CA State Lands Commission; Patti Krebs, Industrial Environmental Association; Don Montoro, U.S. Navy; Rick Sorrell, U.S. Coast Guard; Al Huang, Environmental Health Coalition; and Ed Kimura, Sierra Club.

Item 2 – Public Forum

Richard Dietmeier, Director of South Coast Water District, talked about the conference on sanitary sewer overflow prevention they hosted on May 20, 2003 and about their spill prevention plan.

Board Member Butcher arrived at 9:05 a.m.

Mr. Stephany asked Mr. Robertus to address some of the problems Mr. Dietmeier talked about in the next Executive Officer's Report.

Item 3 – Minutes of Board Meeting of May 14, 2003

This record of the minutes of the meeting on this date is not intended for the official record of events and is solely for administrative convenience. A more detailed account of the proceedings is available upon request, consisting of a tape recording and a court reporter transcribed record. Please contact the Regional Board office for assistance.

Mr. Stephany moved approval of the May 14, 2003 minutes. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 4 – Chairman's, Board Member's, State Board Liaison's and Executive Officer's Reports.

Chairman Minan presented staff members David Barker, Pete Michael and Gloria Fulton with awards recognizing their 25 years of State service.

Executive Officer Robertus briefly spoke about a conference being held on June 20th hosted by the County of San Diego as part of their clean water program, a \$70,000 grant obtained by UCSD to help build a 401 Water Quality Certifications database, and a possible 10 % reduction in staff.

Chairman Minan, Mr. Robertus and Mr. Richards talked about the language being developed on the 401 water quality certification process that will be standard language in future agenda notices.

Ms. Ghio talked about a concern she had with industrial storm water inspections and the duplication of permitting and fees. Mr. Robertus responded to Ms. Ghio's comments.

Chairman Minan said he would be attending a Chairs' meeting at the State Board on June 30, 2003.

Item 5 – Recognition: Resolution of Appreciation for Laurie Black (tentative Resolution No. R9-2003-0242) (*John Robertus*)

Chairman Minan presented the Resolution to Ms. Black. Board Members thanked Ms. Black for her years of service on the Board and her valuable experience and knowledge of water quality issues that she provided the Board. Ms. Black in turn thanked Board Members, Mr. Robertus and staff.

Al Huang, on behalf of the Environmental Health Coalition, also presented a Resolution of Appreciation to Ms. Black.

Consent Items 6 through 12:

Item 6 – Resolution Certifying a Negative Declaration for General Waste Discharge Requirements for Groundwater Remediation at Petroleum Hydrocarbon Fuel and/or Volatile Organic Compound Impacted Sites. (Tentative Resolution No. R9-2003-0167) (*Julie Chan*)

Item 7 – General Waste Discharge Requirements: General Waste Discharge Requirements for Discharges of Treated Groundwater from Volatile Organic Compound Cleanup Sites to Land in the San Diego Region (Tentative Order No. R9-2003-0111) (*Julie Chan*)

Item 8 – Administrative Assessment of Civil Liability with Mandatory Minimum Penalties against the City of Coronado for violation of effluent limitations established by Order No. 2000-90, for a groundwater discharge to San Diego Bay during construction of the Glorietta Bay Sewage Pump Station. The Regional Board will consider written comments received during the public review period

and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2003-0243) (*Rebecca Stewart*)

Item 9 – Administrative Assessment of Civil Liability against Standard Pacific Homes for violations of the statewide construction storm water general permit, Order No. 99-08-DWQ. The Regional Board will consider written comments received during the public review period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2003-0244) (*Rebecca Stewart*)

Item 10 – Revision of Waste Discharge Requirements: Otay Mesa Ventures II, L.L.C., Closure and Post-Closure Maintenance for the Class I Waste Management Containment Cell, Omar Rendering Facility, Darling International, San Diego County (tentative Addendum No. 1 to Order No. 97-40) (*Brian McDaniel*)

Item 11 – Revision of Waste Discharge and Water Recycling Requirements: City of San Diego, North City Water Reclamation Plant, San Diego County (tentative Addendum No. 1 to Order No. 97-03) (*David Hanson*)

Item 12 – Revision of NPDES Permit: Encina Wastewater Authority Discharge to the Pacific Ocean through the Encina Ocean Outfall, San Diego County. If adopted, the addendum would allow discharges of excess recycled water and reverse osmosis waste brine from the proposed City of Carlsbad, Carlsbad Water Recycling Facility to the Pacific Ocean through the Encina Ocean Outfall. (Tentative Addendum No. 2 to Order No. 2000-36, NPDES No. CA0107395) (*Victor Vasquez*)

Mr. Stephany moved approval of Items 6 - 12. The motion was seconded by Mr. Wright and approved by unanimous vote.

Remainder of the Agenda (Non-Consent Items):

Item 13 – NPDES Permit: General Waste Discharge Requirements for Waste Discharges Associated with Marina Operations to Coastal Waters in the San Diego Basin (tentative Order No. R9-2003-0215, NPDES No. CAG999001) (*Pete Michael*)

Chairman Minan explained the procedures that would be followed in presenting the item.

Mr. Stephany disclosed that he was the President of the Anglers Club at the San Diego Yacht Club and said he owned a couple of boats that he hoped to house in a San Diego marina in the future but felt he could make an unbiased decision.

Ms. Butcher disclosed that her son was a boat hull cleaner in a marina but also felt she could make an unbiased decision.

Mr. Robertus introduced the item and senior staff member Pete Michael gave the presentation.

Sandy Purdon, Chairman, San Diego Region Marinas and Yacht Clubs NPDES Permit Response Team, gave a presentation and requested a continuance.

Other speakers included:

Jan Driscoll, Allen Matkins Leck Gamble & Mallory LLP

Mary Kuhn, Marriott Marina

Tim Leathers, Cabrillo Isle Marina

David Bond, Silver Gate Yacht Club

Frank Quan, City of Oceanside

Stephen Soden, Soden Steinburger, represented underwater divers

Dick Cloward, San Diego Port Tenants Association

Jerry Desmond, Jr., Recreational Boaters of California

David Merk, Port of San Diego

Marvin Sachse, yacht club member

Will Pfau, La Jolla boat owner

Leigh Johnson, University of California Sea Grant Extension

Andy Aguilar, San Diego BayKeeper

Sarah Pickeral, San Diego BayKeeper

Marco Gonzales, Surfrider Foundation

Bruce Reznik, San Diego BayKeeper

Al Huang, Environmental Health Coalition

Mr. Purdon made closing remarks.

Board Members asked questions of Mr. Purdon, Ms. Driscoll and Mr. Desmond.

The meeting was recessed for lunch at 12:45 p.m. and reconvened at 1:30 p.m.

Item 13 (con't.)

Mr. Michael made closing statements.

Board Members asked questions of Mr. Michael, Mr. Richards and Mr. Robertus.

Mr. Robertus made comments, gave recommendations then asked the Board for their guidance.

After Board Member discussion, Chairman Minan recommended that the hearing be closed and the item be continued to allow staff to work on the permit.

Mr. Wright said if the item was continued, the implementation should not be delayed.

Mr. Robertus noted that some parts of the permit were required to be in the permit.

Board Members said they wanted to be sure that regulations in existing permits weren't duplicated in the new permit.

Mr. Richards' recommendation was to close the public comment period and open a new public comment period at a later date.

Ms. Ghio asked that, at a future meeting, staff tell the Board what different types of marina operations there are and what they do.

After further discussion, Mr. Stephany made a motion to close the hearing and direct staff to meet with the stakeholders to develop a permit that was more acceptable to all parties then bring the proposed permit back to the Board for consideration by the November 12, 2003 meeting. Ms. Butcher seconded the motion and asked that the three points made by Mr. Robertus; that all issues be brought forward, the requirements be made clear and the fact that it may end up being a vague permit, be included in the permit rewriting process. The motion was approved by unanimous vote.

Item 14 – PUBLIC HEARING: Administrative Assessment of Civil Liability against Shea Homes for violation of SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with the Kelly Core construction site located at Cannon Road and Faraday Avenue, Carlsbad in San Diego County. If the discharger elects to waive their right to a hearing, the matter will be rescheduled to allow for a 30-day public review period

at which time the Regional Board will consider adoption assessment of civil liability. (Tentative Order No. R9-2003-0253) (*Vicente Rodriguez*)

Item 14 was postponed.

Item 15 – Referral to Attorney General: A Resolution directing the Executive Officer to request the Attorney General of the State of California to petition the appropriate court to collect \$3,000 from Castillo & Sons for failure to pay Regional Board Order No. R9-2002-0284, Administrative Assessment of Civil Liability Against Castillo & Sons, A&E Auto Recycling for Failure to Pay Annual Fees. (Tentative Resolution No. R9-2003-0164) (*Vicente Rodriguez*)

Mr. Robertus introduced the item and senior staff member Mark Alpert gave background information to the Board.

Daniel Castillo said he didn't have the money to pay the liability that was due by June 10, 2003 but asked if he could make a \$500 a month payment starting in June with a final payment in November 2003.

Mr. Robertus recommended making the \$500 a month payments due the 28th of each month, with the first payment due June 28th and the final payment due November 28, 2003. If a payment was missed, the matter would be referred to the Attorney General's office.

After Board Member discussion, Ms. Ghio made a motion to amend Resolution No. R9-2003-0164 to include the recommendation made by Mr. Robertus then adopt it. The motion was seconded by Ms. Butcher and approved by unanimous vote.

Item 16 – Referral to Attorney General: A Resolution directing the Executive Officer to request the Attorney General of the State of California to petition the appropriate court to collect \$422,200 from William P. Johnson and Vail Lake, LLC for failure to pay Regional Board Order No. R9-2002-0027, Administrative Assessment of Civil Liability Against William P. Johnson And Vail Lake, LLC for Violations of California Water Code §§ 13267, 13383, and 13376, and State Water Resources Control Board Order No. 99-08-DWQ. (Tentative Resolution No. R9-2003-0245) (*Frank Melbourn*)

Item 16 was postponed.

Item 17 – Revision of NPDES Permit Monitoring and Reporting Program: City of San Diego E.W. Blom Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall. If adopted, this addendum would modify the monitoring and reporting program to incorporate recommendations of the Southern California Coastal Water Research Project's Model Monitoring Program for Large Ocean Discharges in Southern California. (Tentative Addendum No. 1 to Order No. 2002-0025, NPDES Permit No. CA0107409) (*David Hanson*)

Mr. Robertus introduced the item and staff member David Hanson gave the presentation.

Board Members asked questions of Mr. Hanson.

Alan Langworthy, City of San Diego, asked the Board to adopt the addendum.

Ed Kimura, Sierra Club, said he also supported the addendum.

Mr. Wright made a motion to adopt Addendum No. 1 to Order No. 2002-0025. The motion was seconded by Mr. Stephany and approved by unanimous vote.

Item 18 – A Resolution modifying the Regional Board's Waiver Policy to make corrections in response to the results of the State Office of Administrative Law (OAL) review. The Board will consider adoption of a resolution that will make minor modifications and authorize the Executive Officer to make additional minor modifications to correct deficiencies identified by the OAL. (Tentative Resolution No. R9-2003-0262) (*Christina Arias*)

Mr. Robertus introduced the item and recommended adoption of the resolution.

Mr. Anderson asked a question of Ms. Arias about the enrollment form.

Mr. Stephany made a motion to adopt Resolution No. R9-2003-0262. The motion was seconded by Mr. Anderson and approved by unanimous vote.

Item 19 – Status Report: U.S. Coast Guard and U.S. Navy Report on Fuel/Oil Spills in San Diego Bay (*John Robertus*)

Rick Sorrel, U.S. Coast Guard and Don Montoro, U.S. Navy gave a joint presentation.

Item 20 – Status Report: Regional Geographical Information System (GIS) (*John Robertus*)

Mr. Robertus and Mr. David Barker gave a brief status report. Board Members asked questions.

Mr. Wright spoke briefly and said he always recommends that an organization do a needs assessment.

Item 21 – *Executive Session* - Discussion of Ongoing Litigation

The Regional Board may meet in closed session to discuss ongoing litigation for the following cases:

People of the State of California Ex Rel. the Regional Water Quality Control Board, San Diego Region v. Robert Ortega, an individual in his capacity as Acting Commissioner of the International Boundary and Water Commission, United States Section, et al., United States District Court, Southern District of California, Case No. 01-CV-027BTM(JFS); violation of effluent limits in waste discharge requirements for the International Wastewater Treatment Plant contained in Order No. 96-50 (NPDES No. CA0108928) and of Cease and Desist Order No. 96-52; Referral Order No. 99-61; and the related “Surfrider” case:

Surfrider Foundation, San Diego Chapter v. Robert Ortega, et al., Case No. 99-CV-2441-BTM(JFS)

Rakhra Groups, Inc., v. San Diego Regional Water Quality Control Board Superior Court of California, San Diego County; Case No. GIC 776251 and Case No. GIC 786516

San Diego BayKeeper and Surfrider Foundation, San Diego Chapter v. City of San Diego; U.S. District Court, Southern District of California; Case No. 01-CV-0550-B (POR)

The Executive Session was not held.

Item 22 – *Executive Session* - Consideration of Initiation of Litigation

The Regional Board may meet in closed session to consider initiating criminal prosecution against persons who are alleged to have violated the Porter-Cologne Water Quality Control or the federal Clean Water Act.

The Executive Session was not held.

Item 23 – *Executive Session* - Discussion of Pending Litigation

The Regional Board may meet in closed session to discuss pending litigation.

The Executive Session was not held.

Item 24 – *Executive Session* - Personnel

The Regional Board may meet in closed session to consider personnel matters involving exempt employees [Authorized under Government Code Section 11126(a)]

The Executive Session was not held.

Item 25 - Arrangements for Next Meeting and Adjournment

Wednesday, August 13, 2003 - 9:00 a.m.
Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, California

There being no further business, the meeting was adjourned at 4:55 p.m.

These minutes were prepared by:

Signature of Executive Officer:

Lori Costa
Executive Assistant

John H. Robertus